

Claimant worked at a job which required her to spend roughly 70 percent of her time performing computer input and 30 percent of her time performing other various duties, including the coordinating of, gathering and shipping items necessary for a certain international balloon arts convention in Chicago, Illinois. These duties did require that claimant buy props and other materials throughout the city, box them up and ship them out.

It also required that she go up and down stairs, occasionally squat and periodically stand in one place.

Claimant testified she began noticing problems with her right knee as she became fatigued. She would experience pain off and on because of the standing on the cement floor and from having to squat to pick things up and having to bend over.

Claimant did not report the ongoing knee problems to any representative of respondent. On February 15, 16, 17 and 18, 2001, claimant was in Dallas, visiting her daughter. On February 17, while attending a movie, claimant was walking up and down stairs when she experienced a sudden onset of pain and her knee locked up. She described it as being very painful and testified she could hardly make it down the stairs. Claimant had no such symptoms while working for respondent.

After the movie, claimant did some shopping in the mall and continued experiencing difficulty walking.

Claimant returned to work for respondent on February 19. On February 20, she advised her supervisor, Rob Lowe, respondent's human resources manager, of her problems. He advised her to file a claim. Claimant contacted her family doctor, Joaquin Santos, M.D. In the February 20, 2001, telephone note to Dr. Santos, claimant advised the doctor that her right knee was swollen and had been so for three days. She did state that she had been up and down a lot at work and her knee was a little painful. She also testified that it hurt to walk up stairs and to get up and down. Claimant provided no indication of any specific onset of injury, and there was no mention of the incident at the movie theater in Dallas.

Claimant continued performing her regular duties for respondent until March 23, 2001, when she was laid off due to company financial difficulties.

The medical records indicate that claimant has a history of arthritis in both her back and other parts of her body. Additionally, claimant experiences ongoing difficulties in her left knee, which she described as involving a meniscus tear, but which she noted was not related to her employment with respondent.

In workers compensation litigation, it is claimant's burden to prove her entitlement to the benefits requested by a preponderance of the credible evidence. See K.S.A. 44-501 and K.S.A. 44-508(g). In this instance, claimant alleges a series of microtraumas while working for respondent, walking up and down stairs and squatting and standing on a regular basis. It is acknowledged that the medical information contained in Dr. Santos' medical records is somewhat contradictory to claimant's testimony. However, the records also show that claimant suffers stiffness and that her knee hurts when she walks up stairs and gets up and down. This initial information, provided to Dr. Santos on February 20, only

discusses a three-day history of injury. That, however, does encompass the two days of work with respondent on the 19th and 20th of February.

Claimant's testimony regarding her job duties and the pain suffered while performing these duties is uncontradicted. Uncontradicted evidence which is not improbable or unreasonable may not be disregarded unless it is shown to be untrustworthy. Anderson v. Kinsley Sand & Gravel, Inc., 221 Kan. 191, 558 P.2d 146 (1976).

The Appeals Board finds that claimant has proven for preliminary hearing purposes that she suffered accidental injury arising out of and in the course of her employment. Therefore, the Order of the Administrative Law Judge granting claimant medical benefits should be affirmed.

As is always the case, preliminary findings shall not be binding in a full hearing on the claim, but are subject to a full presentation of the facts.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated July 17, 2001, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of September, 2001.

BOARD MEMBER

c: Gary K. Jones, Attorney for Claimant
Christopher J. McCurdy, Attorney for Respondent.
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director